

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6759**

**BILL NUMBER:** SB 360

**NOTE PREPARED:** Dec 28, 2011

**BILL AMENDED:**

**SUBJECT:** Cell Phone GPS Tracking.

**FIRST AUTHOR:** Sen. Young R

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill requires a person who sells a cellular telephone or provides wireless telephone service to inform a subscriber how to deactivate the device's GPS tracking function. It specifies that the failure to provide this information is a deceptive act that may be enforced by the Attorney General.

The bill makes it a Class A misdemeanor to track another person by GPS unless:

1. The person obtains a warrant;
2. The tracking is done in the normal course of business by a service provider;
3. The tracking is performed by the federal government under the Foreign Intelligence Surveillance Act;
4. The person consents to the tracking;
5. A parent has consented to the tracking of the parent's child;
6. The ability to track a specific person is offered to the general public;
7. The tracking is done by a law enforcement officer or emergency services provider to respond to a request for assistance by the person, or under circumstances in which the person's life or safety is threatened; or
8. The tracking is of a person who has stolen an item containing the GPS device.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** The Attorney General could incur some additional expenses enforcing the requirement that a person purchasing a cellular telephone be told how to disable the GPS tracking function. The additional expenses to the state would probably be minor.

**Explanation of State Revenues:** If a seller of a cellular telephone or wireless telephone service fails to notify a buyer of how to disable the GPS function, then the seller could be fined a civil penalty of up to \$10,000 per deceptive act and be required pay the Attorney General's costs.

The bill also provides that an individual who commits unlawful GPS tracking is subject to a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:**

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:**

**Fiscal Analyst:** Chuck Mayfield, 317-232-4825.